

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9347 OF 2003

The Union of India & Ors.....		Petitioners.
V/s		
G.B. Merchant		Respondent.

Mr.P.M.Pradhan, Adv. for the petitioner.

Mr.G.K.Masand with Ms.R.Singh & B.R.Anganathan for respondent.

CORAM: V.G. PALSHIKAR
AND
V.R.KINGAONKAR, JJ.

12.04.2006

PC:

By this petition the petitioner has challenged the order passed by the Central Administrative Tribunal whereby the punishment imposed by the Disciplinary Authority was set aside and the matter was remitted back to the authority for passing appropriate order of punishment in accordance with rules which shall be less than dismissal from service.

2. The disciplinary proceedings arose because of prolonged absence of the respondents employee due to illness. Ultimately the services came to be terminated because of this extra ordinary leave which was not sanctioned by the President of India and therefore the matter was taken before the Central Administrative Tribunal. The Tribunal on appreciation of facts and law applicable to the present case came to the conclusion that the punishment of dismissal from service was disproportionate to the alleged misconduct and therefore passed the impugned order. In our view no jurisdictional error is committed by the Tribunal in setting aside the punishment in remitting matter back for passing appropriate order of punishment in accordance with Rules which shall be less than the penalty of dismissal from service. No interference is therefore called for. Petition dismissed.